

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 6. ECONOMIC SECURITY

#### CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY - DEVELOPMENTAL DISABILITIES

#### PREAMBLE

1. Sections Affected  
R6-6-1509
- Rulemaking Action  
Amend
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):  
A.R.S. §§ 41-1954(A)(1)(i), (A)(1)(j), (A)(3); 46-134(12); 36-552; 36-554; 36-596.54(A)
3. The name and address of agency personnel with whom persons may communicate regarding the rule:  
Name: Vista Thompson Brown  
Address: Department of Economic Security  
1789 West Jefferson, Site Code 837A  
Phoenix, Arizona 85007  
Or  
P.O. Box 6123, Site Code 837A  
Phoenix, Arizona 85005  
Telephone: (602) 542-6555  
Fax: (602) 542-6000
4. An explanation of the rule, including the agency's reason for initiating the rule:  
This rulemaking proceeding implements the Notice of Rulemaking Docket Opening which is scheduled to be included in the February 20, 1998 edition of the Arizona Administrative Register.  
  
The Division needs to stagger the renewals for an HCBS certificate in order to conform to new rules which prescribe time frames for issuing renewals. Currently, there are over 1700 HCBS providers whose renewals come due at the end of each state fiscal year. By staggering the renewals throughout the year, it will allow the Division to spread the work load throughout the year and ensure timely renewals of HCBS certificates.  
  
The rule allows the Division to specify the duration of an HCBS certificate in order to stagger the renewals.
5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:  
Not applicable.
6. The preliminary summary of the economic, small business, and consumer impact:  
The rules will have a positive but intangible economic impact on small business and consumers by reducing the number of HCBS certificate renewals that occur at a given time, thereby allowing the Division to process renewals more timely.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:  
Name: Eileen Colleran  
Address: Department of Economic Security

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1789 West Jefferson, Site Code 791A  
Phoenix, Arizona 85007

Or

P.O. Box 6123, Site Code 791A  
Phoenix, Arizona 85005

Telephone: (602) 542-6826

Fax: (602) 542-6870

**8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department has scheduled the following oral proceeding:

Phoenix: District 1

Date: Thursday, April 23, 1998

Time: 1:30 p.m.

Location: DES Conference Room

Address: 815 North 18th Street

Phone: Coordin. Program Mgr. Carla Van Cleve (602) 846-0001

Persons with disabilities may request a reasonable accommodation, such as a sign language interpreter, by contacting the program manager identified above. Requests should be made as early as possible to allow time to arrange the accommodation. This document is available in alternative format by contacting Vista Thompson Brown at (602) 542-6555, P.O. Box 6123, Site 837A, Phoenix, Arizona 85005; TDD Relay (800) 367-8939.

Written comments will be accepted by the person listed in question #3 from now until the close of record, which is scheduled for 5 p.m., Friday, April 24, 1998.

**9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable.

**10. Incorporations by reference and their location in the rules:**

Not applicable.

**11. The full text of the rules follows:**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY - DEVELOPMENTAL DISABILITIES**

**ARTICLE 15. STANDARDS FOR CERTIFICATION OF  
HOME AND COMMUNITY-BASED SERVICE (HCBS)  
PROVIDERS**

Section

R6-6-1509. Duration of an HCBS Certificate

**ARTICLE 15. STANDARDS FOR CERTIFICATION OF  
HOME AND COMMUNITY-BASED SERVICE (HCBS)  
PROVIDERS**

**R6-6-1509. Duration of an HCBS Certificate**

A. An initial HCBS certificate is valid for 1 year from the date of issuance or a lesser period if so specified on the HCBS certificate.

B. A renewal HCBS certificate is valid for a period of 1 year from the date of issuance or a lesser period if so specified on the HCBS certificate.

## NOTICE OF PROPOSED RULEMAKING

### TITLE 18. ENVIRONMENTAL QUALITY

#### CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY - WASTE MANAGEMENT

##### PREAMBLE

1. Sections Affected

R18-8-260  
R18-8-261  
R18-8-262  
R18-8-263  
R18-8-264  
R18-8-265  
R18-8-266  
R18-8-268  
R18-8-270  
R18-8-271  
R18-8-273

Rulemaking Action

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend

2. The specific authority for the rule making, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

General Authorizing and Implementing statute: A.R.S. § 49-922

3. The name and address of agency personnel with whom persons may communicate regarding the rule:

Primary Contact:

Name: Lynn A. Keeling, Rules Specialist  
Address: Arizona Department of Environmental Quality  
3033 North Central, Room 844A  
Phoenix, Arizona 85012-2809  
Telephone: (602) 207-2223 or 800-234-5677, Ext. 2223 (Arizona only)  
Fax: (602) 207-2251

Secondary Contact:

Name: Martha Seaman, Manager of Rule Development  
Address: Arizona Department of Environmental Quality  
3033 North Central, Room 831  
Phoenix, Arizona 85012-2809  
Telephone: (602) 207-2222 or 800-234-5677, Ext. 2222 (Arizona only)  
Fax: (602) 207-2251

4. An explanation of the rule, including the agency's reasons for initiating the rule:

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- A. General Information about the Incorporations by Reference as of July 1, 1997.
- B. Descriptions of the revisions incorporated by reference.
- C. State-initiated change.

#### THE EXPLANATION OF THE RULE

- A. General Information about the Incorporations by Reference as of July 1, 1997.

Every year the Arizona Department of Environmental Quality (ADEQ) amends the state's hazardous waste rules. The state's hazardous waste rules are generally comprised of the federal regulations, authorized by Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), which are incorporated by reference. The hazardous waste rules are well established and have been effective since 1984. This year's amendments cover changes in the federal regulations promulgated between July 2, 1996 and July 1, 1997.

For Arizona to be authorized to manage the federal hazardous waste program, ADEQ must either incorporate by reference the federal regulations or write state rules that are equivalent to and consistent with federal regulations. Incorporating the federal regulations will keep Arizona's hazardous waste management program funded by the United States Environmental Protection

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Agency (EPA) and in compliance with A.R.S. § 49-922. The EPA requires that Arizona be re-authorized to maintain the authority to manage the federal hazardous waste program in lieu of the EPA administering the program in Arizona. ADEQ received final RCRA authorization in 1985 and continues to apply for re-authorization to keep current with changes to federal regulations. Adoption of federal regulations also promotes compliance uniformity among states. Most of the federal regulations incorporated by reference in this rulemaking are required for re-authorization.

To identify the changes made to the incorporations by reference in the rules, the date has been changed from July 1, 1996 to July 1, 1997 in subsection (A) of most sections. Subsection (A) of sections R18-8-260 through 266, 268, 270, 271, and 273 incorporates by reference the federal regulations published in 40 CFR 124, 260 through 266, 268, 270, and 273 as of July 1, 1997 with certain exceptions. Sections 269 and 280 are state rules that do not incorporate federal regulations.

The purpose of this rule making is primarily to incorporate the text of federal regulations for re-authorization by the EPA. Modifications to the text incorporated by reference are intended to make the language consistent with state terminology, and not intended to make substantive changes to the content. For example, the federal regulations incorporated by reference refer to the "EPA" because it is the implementing agency, but since Arizona is authorized to implement and enforce the RCRA program contained in the incorporated regulations, "EPA" is usually replaced with "ADEQ" when referring to the agency that implements the regulations. Because the changes to the federal regulations are generally to tailor the language to ADEQ, the changes to the incorporated text are not intended to have any additional impact beyond the federal regulation.

**B. Descriptions of the revisions incorporated by reference.**

1. Rule Title: Land Disposal Restrictions Phase III--Emergency Extension of the K088 Capacity Variance. EPA is extending the current national capacity variance for spent potliners from primary aluminum production (Hazardous Waste Number K088) for six (6) months. Thus, K088 wastes do not have to be treated to meet land disposal restrictions (LDR) treatment standards until July 8, 1997. This extension is needed due to the unanticipated performance problems by the treatment technology which provides most of the available treatment capacity for these wastes. At the time of the extension, the EPA did not believe that sufficient treatment capacity which minimizes short and long-term threats to human health and the environment posed by the land disposal of the potliners was presently available. The length of the extension of the national capacity variance is based on EPA's best current estimate of the time it will take to modify, evaluate, and correct the current deficiencies in treatment performance. Although the extension date has passed, the rule was effective in January of 1997, therefore this incorporation by reference conforms Arizona's rule to the federal revisions. This rule can be found in Volume 62 of the Federal Register p. 1992, dated January 14, 1997.

2. Rule Title: Military Munitions Rule: Hazardous Waste Identification and Management: Explosives Emergencies: Manifest Exemption for Transport of Hazardous Waste on Right-of Ways on Contiguous Properties. This EPA rule identifies when conventional and chemical military munitions become a hazardous waste under RCRA, and that provides for the safe storage of such waste. This rule also amends existing regulations regarding emergency responses involving both military and non-military munitions and explosives. In addition, this rule exempts all generators and transporters of munitions and explosives that are hazardous waste, not just the military, from the RCRA manifest requirement for the transportation of munitions and explosives that are a hazardous waste on public or private right-of-ways on or along the border of contiguous properties, under the control of the same person, regardless of whether the contiguous properties are divided by right-of-ways. This revision is expected to reduce the paperwork burden, for hazardous waste generators whose property is divided by right-of-ways without loss in protection of public health. This rule can be found in Volume 62 of the Federal Register p. 6622, dated February 12, 1997.

ADEQ amended the "Purpose, scope, and applicability" section within 40 CFR Part 262 by adding language to clarify that the provision in the federal regulation which exempts persons responding to an explosive or munitions emergency from having to comply with the standards applicable to hazardous waste generators is valid only "for the limited time period required to control, mitigate, or eliminate the immediate threat. As soon as the immediate response activities are completed, all standards applicable to Part 262 apply. ADEQ further added language in Part 262 stating that "the owner of the object of an emergency response; the owner of the property on which the object of on which the object of an emergency rests or where the emergency response initiates; or the requestor for an emergency response is responsible for addressing any residual contamination that results from an emergency response." In Sections 264.1, 265.1 and 270.1, Paragraph D was amended to require emergency responders to notify the ADEQ Emergency Response Unit as soon as possible.

Since, on the federal level, language similar to the ADEQ amendments is contained only in the preamble of the federal register that established this rule, the ADEQ's amendments are needed to ensure that the regulated community is aware of the specific requirements and to enhance ADEQ's ability to adequately enforce this rule.

3. Rule Title: Land Disposal Restrictions - Phase IV: Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions. This rule finalizes treatment standards for hazardous wastes generated from wood preserving operations and makes conforming amendments to the standards for wastes from production of chlorinated aliphatics, which carry the F024 hazardous waste code. These new treatment standards are more stringent, but allow combustion as treatment for RCRA jurisdiction waste. In addition, this rule revises the land disposal restrictions (LDR) program to significantly reduce paper work requirements by 1.6 million hours. This rule also finalizes both the decisions to employ polymerization as an alternative method of treatment for certain ignitable waste as well as the decision not to ban certain wastes from biological treatment because there is no need to classify these wastes as "nonamenable." It also clarifies an exception from LDR requirements for de minimis amounts of characteristic wastewaters. Finally, this rule excludes processed circuit boards and scrap metal from RCRA regulations, (it is exempt from the definition of solid waste), which is intended to promote the goal of safe recycling. This rule can be found in Volume 62 of the

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Federal Register p. 25998, dated May 12, 1997.

4. Rule Title: Hazardous Waste Management System: Testing and Monitoring Activities. This amendment adds new and revised methods as Update III to the Third Edition of the EPA-approved test methods manual "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 and deletes several obsolete methods from SW-846 and the RCRA regulations. The intent of this action is to provide state-of-the-art analytical technologies for RCRA-related testing, this promoting cost effectiveness and flexibility in choosing analytical test methods, as well as clarifying the RCRA Program's approach to working towards the Performance Based Measurement System (PBMS).

Each test method that was removed was replaced by at least one newer method. All the methods are intended to promote accuracy, sensitivity, specificity, precision, and comparability of analyses and test results. Use of some of the methods is required by some of the hazardous waste regulations under subtitle C of RCRA, and others function as guidance to satisfy RCRA-related sampling and analysis requirements. This rule can be found in Volume 62 of the Federal Register p. 32452, dated June 13, 1997.

5. Rule Title: Hazardous Waste Management System: Carbamate Production, Identification and Listing of Hazardous Waste: Land Disposal Restrictions. This rule amends regulations to conform with a federal appeals court ruling (98 F.3d 1394) that invalidated in part, Agency regulations listing certain carbamate wastes as hazardous under RCRA. These regulations also pertain to certain hazardous waste management of carbamate industry wastes under RCRA. The vacated hazardous waste listings and associated regulatory requirements are to be treated as if they were never in effect. States regulations, which may be more stringent or broader in scope than federal rules, are not necessarily affected by the court ruling and can list these wastes. However, ADEQ is required to be consistent with and no more stringent than the regulations found in Title 40 of the Code of Federal Regulations, pursuant to A.R.S. § 49-922. This rule can be found in Volume 62 of the Federal Register p. 32974, dated June 17, 1997.

C. State-initiated changes.

To ensure clarity and consistency, 40 CFR § 261.9, entitled "Requirements for Universal Waste", is amended to add mercury-containing waste lamps to the list of universal wastes that are exempted from regulation under 40 CFR 262 through 270 (as incorporated by R18-8-262 through R18-8-270) when managed as universal waste. By making this change, the exemption list will be consistent with the list of universal wastes found in R18-8-273(D).

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

6. The summary of the economic, small business, and consumer impact:

A. Identification of proposed rulemaking

This waste management rulemaking is known as the 1996-97 amendments to the hazardous waste rules. This rulemaking incorporates changes in federal regulations that were promulgated between 2 July 1996 and 1 July 1997. It is codified in the *Arizona Administrative Code* as follows:

Title 18. Environmental Quality

Chapter 8. Department of Environmental Quality, Waste Management

Article 2. Hazardous Wastes

For a copy of the preliminary EIS, please contact David Lillie (see #7 below for address and telephone numbers).

B. Introduction

This rulemaking is primarily an incorporation of federal regulations that are effective; therefore, an argument might be made that an EIS is not required for this rulemaking, pursuant to A.R.S. §41-1055(D)(3), and the fact that many federal provisions incorporated by reference currently may not be applicable in Arizona (e.g., the capacity variance for K088 wastes). A.R.S. §41-1055(D)(3) states in part, an agency is not required to prepare an economic impact business and consumer impact statement pursuant to this chapter for "Any rule making that decreases monitoring, record keeping or reporting burdens on agencies, political subdivisions, businesses or persons, unless the agency determines that increased costs of implementation or enforcement may equal or exceed the reduction in burdens." Additionally, all of these federal regulations currently are effective, except for F032, F034, and F035 wastewaters which will be prohibited from land disposal in 1999. Thus, from the viewpoint that essentially all federal changes currently are in effect, adopting these federal changes would not represent an incremental impact. Nonetheless, ADEQ believes that the EIS analysis is helpful to understand the implications of the rule. Although the overall impact is expected to represent a cost-saving benefit, principally due to costs avoided, some entities may experience minimal costs to comply with these federal changes. Even though many changes may be considered less regulatory in that they represent avoided-cost burdens, no losses in the protection of human health and the environment are anticipated.

C. Need for rulemaking

ADEQ staff amends the state hazardous waste rules annually. This is necessary for ADEQ to maintain authority to manage the federal hazardous waste program in lieu of the EPA administering the program in Arizona. Amending the hazardous waste rules allows ADEQ to continue to receive re-authorization and program funds from the EPA. This also enables ADEQ to remain in compliance with A.R.S. §49-922, which means, among other things, to adopt rules that provide for a program equivalent to

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and consistent with the federal hazardous waste regulations. ADEQ staff has opted to do this by incorporating federal regulations by reference. The 1996-97 amendments consist entirely of federal changes with one state-initiated change that is merely for clarification and conformity.

**D. General summary of federal changes**

1. The capacity variance for K088 wastes (delaying the imposition of treatment standards for spend aluminum potliners) is not expected to impact AZ industry. According to *County Business Patterns 1995 (Arizona)*, the state has no industries that are involved in the primary production of aluminum (SIC code 3334).

2. The military munitions regulation addresses 4 issues: (1) identification of munitions as waste, (2) transportation of munitions identified as wastes, (3) emergency response actions, and (4) storage standards for waste munitions. The major impact of this rule is on federal agencies. This is because the primary focus is military munitions. However, these changes are expected to reduce the paperwork burden for hazardous waste generators (both military and non-military). These entities could include not only military bases, but universities and industrial parks that may be divided by public or private rights-of-ways.

The EPA estimated, over the next 10 years, that these changes would not only generate an annual cost of \$100,000 to the Department of Defense and an annual cost of \$200,000 to state, local and tribal governments, but cost-saving benefits of \$1,200,000 - \$2,200,000 as a result of costs avoided (see 62 FR 6649). This represents benefits exceeding costs by a range somewhere between 4:1 and 7:1. On a preliminary assessment, ADEQ likewise expects similar benefits to accrue to its regulated entities. This cost-saving benefit is a direct result of avoided costs for new permits, contingency plans, manifests, and retrofitted storage units.

3. The Land Disposal Restrictions (LDR)--Phase IV: Treatment Standards for Wood Preserving Wastes. This rule makes several changes which finalize, revise, or clarify federal requirements. Because of the variety of changes, the impact to regulated entities will vary. However, ADEQ expects these changes to generate cost-saving benefits. Specifically, benefits to Arizona industries are expected to accrue from a significant reduction in the reporting and recordkeeping burden in LDR regulations. Previously, LDR regulations required hazardous waste handlers to include notifications with each shipment of waste sent to treaters or disposers. Now, only a single notification is required for all shipments of restricted hazardous wastes, unless a change occurs with the waste, process, or receiving facility. In addition, record retention is reduced from a period of 5 years to 3 years (62 FR 26003-04).

Other changes (e.g., point of generation at boiler cleanout; polymerization used as an alternative method of treatment for certain ignitable wastes; certain wastes not being banned from biological treatment; and processed circuit boards being excluded from RCRA regulation) may be viewed as less regulatory which provide opportunities for avoided-cost burdens. According to *County Business Patterns 1995 (Arizona)*, the state has two wood preserving industries (SIC code 2491) each with an employment-size class of 20-49. The EPA has concluded that the economic impact is small. The compliance costs of Phase IV LDR regulations nationally on small wood preserving facilities that use inorganic wood preservatives and generate F035 wastes is estimated at less than 1% of their total revenues. Wood preserving facilities that generate F032 and F035 wastes may incur compliance costs greater than 1% of their total revenues. Product substitution to nontoxic or other toxic preservatives that result in less expensive treatment of wastes could result in lower costs to the facilities that follow this trend (62 FR 26016). Thus, for Arizona industries, ADEQ believes that benefits will outweigh costs.

4. The testing and monitoring activities regulation adds new and revised methods as Update III to the 3rd edition of the EPA approved test methods manual, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." It also deletes obsolete methods. The intent is to provide state-of-the-art analytical technologies for waste sampling and analysis for RCRA-related activities. The use of these new and revised methods is expected to reduce costs. For example, new immunoassay methods can be done in the field, thus, replacing expensive gas chromatographic laboratory analysis (62 FR 32461). Since this change only revises available test methods for complying with existing federal regulations, it does not add a compliance burden. As a result of these changes, ADEQ anticipates Arizona industry will benefit from increased flexibility in testing and monitoring solid waste.

5. The final regulation, the carbamate amendment, which invalidates regulations listing certain carbamate wastes as hazardous under RCRA, conforms to the vacated federal hazardous waste listings and regulatory requirements pursuant to a federal appeals court ruling (98 F.3d 1394, D.C. Cir. 1996). Thus, this regulation should be considered less regulatory.

**E. Entities impacted**

Entities potentially impacted by this rulemaking will vary according to specific rule provisions. The entities also will be affected in varying degrees both within the classes and from one class to another. Additionally, this particular rulemaking also impacts federal agencies and various state, local and tribal governments. Potential entities impacted by this rulemaking include: generators (several categories), treatment, storage, and disposal (TSD) facilities, transporters, laboratories, ADEQ (implementing agency), and the public. ADEQ is continuing its research to determine the costs and benefits of this rulemaking. ADEQ encourages anyone with information or data about the impacts of this rulemaking to contact ADEQ staff.

**F. Conclusion**

Overall, this rulemaking is expected to generate several cost-saving benefits in the form of avoided-cost burdens to Arizona industry. The economic impacts on small businesses is expected to be minimal. Not only will the business community, and political subdivisions, benefit, but ADEQ and the general public as well. ADEQ staff anticipates that these changes will contrib-

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ute to an improved hazardous waste program in Arizona and be no less protective of human health and the environment. Although numerous changes to federal regulations generate a complexity of impacts, ADEQ staff expects probable benefits to outweigh probable costs of this rulemaking.

Under the state's hazardous waste program, ADEQ cannot provide small businesses with an exemption from these regulations, or even establish less stringent standards or reporting or schedules for compliance and reporting. This is because ADEQ's program must be "equivalent to and consistent with" federal hazardous waste regulations, as required by the EPA and state statute (see A.R.S. §49-922(A)). A.R.S. § 41-1035 states in part: "If an agency proposes a new rule or an amendment to an existing rule which may have an impact on small businesses, the agency shall consider each of the methods described in this section for reducing the impact of the rule making on small businesses." Therefore, due to the statutory requirement that ADEQ's program be equivalent to and consistent with the federal hazardous waste regulations, ADEQ does not have the authority to consolidate or simplify the rule's compliance or reporting requirements for small businesses, or establish performance standards for small businesses to replace design or operational standards in the rule.

**7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the EIS:**

Name: David Lillie, Economist  
Address: Arizona Department of Environmental Quality  
3033 North Central Avenue #844  
Phoenix, Arizona 85012  
Telephone: (602) 207-4436 or in Arizona (800) 234-5677, Ext. 4436  
Fax: (602) 207-2251

**8. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding will be held at the Arizona Department of Environmental Quality, 3033 North Central, Phoenix in the hearing room at 9 am on Tuesday, April 21, 1998. The Department is committed to complying with the Americans with Disabilities Act. Persons with a disability who are interested in presenting comments may arrange for special accommodation by calling (602) 207-4795. Persons who need a telecommunication device for the deaf in order to present comments may arrange for one by calling (602) 207-4829. The close of comment period is 5 pm, Friday April 24, 1998.

**9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.

**10. Incorporations by reference and their location in the rules:**

40 CFR 260	R18-8-260
40 CFR 261	R18-8-261
40 CFR 262	R18-8-262
40 CFR 263	R18-8-263
40 CFR 264	R18-8-264
40 CFR 265	R18-8-265
40 CFR 266	R18-8-266
40 CFR 268	R18-8-268
40 CFR 270	R18-8-270
40 CFR 124	R18-8-271
40 CFR 273	R18-8-273

**11. The full text of the rule:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY - WASTE MANAGEMENT**

**ARTICLE 2. HAZARDOUS WASTES**

Section		R18-8-266.	posal Facilities Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities
R18-8-260.	Hazardous Waste Management System: General	R18-8-268.	Land Disposal Restrictions
R18-8-261.	Identification and Listing of Hazardous Waste	R18-8-270.	The Hazardous Waste Permit Program
R18-8-262.	Standards Applicable to Generators of Hazardous Waste	R18-8-271.	Procedures for Permit Administration
R18-8-263.	Standards Applicable to Transporters of Hazardous Waste	R18-8-273.	Standards for Universal Waste Management
R18-8-264.	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities		
R18-8-265.	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Dis-		

**ARTICLE 2. HAZARDOUS WASTES**

**R18-8-260. Hazardous Waste Management System: General**  
A. Federal and state statutes and regulations cited in these rules are those adopted as of July 1, 1996~~1997~~, unless otherwise

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noted. 40 CFR 124, 260 through 266, 268, 270 and 273 or parts thereof, are adopted by reference when so noted. Federal statutes and regulations that are cited within 40 CFR 124 and 260 through 270 that are not adopted by reference may be used as guidance in interpreting federal regulatory language.

**B.** No Change.

- C.** All of 40 CFR 260 and the accompanying appendix, as amended as of July 1, 1996~~1997~~, (and no future editions), with the exception of §§ 260.1(b)(4) through (6), 260.20(a), 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33, are incorporated by reference and modified by the following subsections of R18-8-260 and are on file with the Department of Environmental Quality (DEQ) and the Office of the Secretary of State.

**D.** No Change.

1. No Change.
2. No Change.
  - a. No Change.
    - i. No Change.
    - ii. No Change.
  - b. No Change.
    - i. No Change.
    - ii. No Change.
    - iii. No Change.
    - iv. No Change.
  - c. No Change.
    - i. No Change.
    - ii. No Change.
    - iii. No Change.
  - d. No Change.
    - i. No Change.
    - ii. No Change.
    - iii. No Change.
  - e. No Change.
    - i. No Change.
      - (1) No Change.
      - (2) No Change.
    - ii. No Change.
      - (1) No Change.
      - (2) No Change.
    - iii. No Change.
      - (1) No Change.
      - (2) No Change.
      - (3) No Change.
      - (4) No Change.
  - f. No Change.
    - i. No Change.
    - ii. No Change.
    - iii. No Change.
    - iv. No Change.
    - v. No Change.

**E.** No Change.

1. No Change.
2. No Change.
3. No Change.
4. No Change.
5. No Change.
6. No Change.
7. No Change.
8. No Change.
9. No Change.
10. No Change.
11. No Change.
12. No Change.

- a. No Change.
- b. No Change.
- c. No Change.
- d. No Change.
- e. No Change.
- f. No Change.
- g. No Change.
- h. No Change.
- i. No Change.

13. No Change.

14. No Change.

15. No Change.

16. No Change.

17. No Change.

18. No Change.

19. No Change.

20. No Change.

21. No Change.

22. No Change.

a. No Change.

b. No Change.

23. No Change.

24. No Change.

25. No Change.

26. No Change.

27. No Change.

28. No Change.

29. No Change.

30. No Change.

31. No Change.

32. No Change.

**F.** No Change.

1. No Change.

2. No Change.

3. No Change.

a. No Change.

b. No Change.

4. No Change.

5. No Change.

6. No Change.

a. No Change.

b. No Change.

7. No Change.

**G.** No Change.

**H.** No Change.

**I.** No Change.

**J.** No Change.

**K.** No Change.

**L.** No Change.

**M.** No Change.

1. No Change.

2. No Change.

3. No Change.

**R18-8-261. Identification and Listing of Hazardous Waste**

- A.** All of 40 CFR 261 and accompanying appendices, as amended as of July 1, 1996~~1997~~ (and no future editions), with the exception of § 261.5(j), are incorporated by reference and modified by the following subsections of R18-8-261 and are on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to Part 261 and its appendices in 61 Federal Register 59932, on November 25, 1996 are incorporated by reference and on file with the DEQ and the Office of Secretary of State.

**B.** No Change.

**C.** No Change.



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- D. No Change.
- E. No Change.
- F. No Change.
- G. No Change.
- H. No Change.

I. § 261.6, entitled "Requirements for recyclable materials", paragraphs (a)(1) through (a)(3) are amended as follows:

1. (a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of paragraphs (b) and (c) of this section, except for the materials listed in paragraphs (a)(2) and (a)(3) of this section. Hazardous wastes that are recycled [shall] be known as "recyclable materials."
2. (a)(2) The following recyclable materials are not subject to the requirements of this section but are regulated under [40 CFR 266, subparts C, F, G, and H (as incorporated by R18-8-266)] and all applicable provisions in parts 270 and 124 of this Chapter [(as incorporated by R18-8-270 and R18-8-271)]:
  - (i.) Recyclable materials used in a manner constituting disposal (subpart C);
  - (ii.) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under [40 CFR 264 or 265, subpart O (as incorporated by R18-8-264 and R18-8-265)] (subpart H);
  - (iii.) Recyclable materials from which precious metals are reclaimed (subpart F);
  - (iv.) Spent lead-acid batteries that are being reclaimed (subpart G).
3. (a)(3) The following recyclable materials are not subject to regulation under [40 CFR 262 through 266, 268, 270, or 124 (as incorporated by R18-8-262 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271)] and are not subject to the notification requirements of section 3010 of RCRA:
  - (a) Industrial ethyl alcohol that is reclaimed except that, unless provided otherwise in an international agreement as specified in § 262.58:
    - i. A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, [shall] comply with the requirements applicable to a primary exporter in §§ 262.53, 262.56 (a)(1)-(4), (6), and (b), and 262.57, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in subpart E of part 262, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;
    - ii. Transporters transporting a shipment for export may not accept a shipment if [the transporter] knows the shipment does not conform to the EPA Acknowledgment of Consent, [shall] ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and [shall] ensure that [the EPA Acknowledgment of Consent] is delivered to the [subsequent transporter or] facility designated by the person initiating the shipment.
4. Scrap metal; that is not excluded under § 261.4(a)(13);

5. Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under § 261.4(a)(12) (as incorporated by R18-8-261);
6. Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under [A.R.S. § 49-801(A)(5)] and so long as no other hazardous wastes are used to produce the hazardous waste fuel;
7. Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining[,] production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under [A.R.S. § 49-801(A)(5)]; and
8. Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under [A.R.S. § 49-801(A)(5)]; and
9. Petroleum coke produced from petroleum refinery hazardous wastes containing oil by the same person who generated the waste, unless the resulting coke product exceeds one or more of the characteristics of hazardous waste in part 261, subpart C [(as incorporated by R18-8-261)].

J. No Change.

~~K.~~ § 261.9, entitled "Requirements for Universal Waste" is amended by adding paragraph (d): Mercury containing waste lamps as described in R18-8-273.

~~K.~~ L. No Change.

~~L.~~ M. No Change.

**R18-8-262. Standards Applicable to Generators of Hazardous Waste**

- A. All of 40 CFR 262 and the accompanying appendix, as amended as of July 1, ~~1996~~1997, (and no future editions), are incorporated by reference and modified by the following subsections of R18-8-262, and are on file with the DEQ and the Office of the Secretary of State. ~~In addition, all amendments to Part 262 and its appendices in 61 Federal Register 59932, on November 25, 1996 are incorporated by reference and on file with the DEQ and the Office of Secretary of State.~~
- B. No Change.
  1. No Change.
  2. No Change.
  3. No Change.
- C. § 262.10, entitled "Purpose, scope, and applicability", is amended as follows: [For the limited time period required to control, mitigate, or eliminate the immediate threat] persons responding to an explosive or munitions emergency in accordance with 264.1(g)(8)(i)(D) or (iv), or 265.1(c)(11)(i)(D) or (iv), and 270.1(c)(3)(i)(D) or (iii) are not required to comply with the standards of this part. [As soon as the immediate response activities are completed, all standards of this part

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apply. For purposes of this rule, DEQ does not consider emergency response personnel to be generators of residuals resulting from immediate responses, unless they are also the owner of the object of an emergency response. The owner of the object of an emergency response; the owner of the property on which the object of an emergency rests or where the emergency response initiates; or the requestor for an emergency response is responsible for addressing any residual contamination that results from an emergency response.]

**C.D.** No Change.

**D.E.** No Change.

**E.F.** No Change.

**F.G.** No Change.

**G.H.** No Change.

1. No Change.

2. No Change.

**H.I.** No Change.

**I.J.** No Change.

**J.K.** No Change.

**K.L.** No Change.

**L.M.** No Change.

**R18-8-263. Standards Applicable to Transporters of Hazardous Waste**

A. All of 40 CFR 263, as amended as of July 1, 1996~~1997~~, (and no future editions), is incorporated by reference a (and modified by the following subsections of R18-8-263, and on file with the DEQ and the Office of the Secretary of State.

B. No Change.

C. No Change.

D. No Change.

E. No Change.

**R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**

A. All of 40 CFR 264 and accompanying appendices, as amended as of July 1, 1996~~1997~~, (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149 - 264.150, and 264.301(i), are incorporated by reference, and modified by the following subsections of R18-8-264, and are on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to Part 264 and its appendices in 61 Federal Register 59932, on November 25, 1996 are incorporated by reference and on file with the DEQ and the Office of Secretary of State.

B. No Change.

C. § 264.1, entitled "Purpose, scope, and applicability", paragraph (g)(8)(i)(D) is amended as follows:

(D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialists as defined in 40 CFR 260.10. [The DEQ Emergency Response Unit shall be notified as soon as possible, using the 24-hour number (602) 207-2330 or (800) 324-5677, extension 2330.]

**C.D.** No Change.

1. No Change.

2. No Change.

**D.E.** No Change.

**E.F.** No Change.

**F.G.** No Change.

**G.H.** No Change.

**H.I.** No Change.

1. No Change.

2. No Change.

**I.J.** No Change.

**J.K.** No Change.

**K.L.** No Change.

**L.M.** No Change.

**M.N.** No Change.

**N.O.** No Change.

1. No Change.

2. No Change.

3. No Change.

4. No Change.

5. No Change.

6. No Change.

**R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**

A. All of 40 CFR 265 and accompanying appendices, as amended as of July 1, 1996~~1997~~ (and no future editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, are incorporated by reference and modified by the following subsections of R18-8-265, and are on file with the DEQ and the Office of the Secretary of State. In addition, all amendments to Part 265 and its appendices in 61 Federal Register 59932, on November 25, 1996 are incorporated by reference and on file with the DEQ and the Office of Secretary of State.

B. No Change.

C. § 265.1, entitled "Purpose, scope, and applicability", paragraph (c)(11)(i)(D) is amended as follows:

(D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialists as defined in 40 CFR 260.10. [The DEQ Emergency Response Unit shall be notified as soon as possible, using the 24-hour number (602) 207-2330 or (800) 324-5677, extension 2330.]

**C.D.** No Change.

1. No Change.

2. No Change.

**D.E.** No Change.

**E.F.** No Change.

**F.G.** No Change.

**G.H.** No Change.

**H.I.** No Change.

**I.J.** No Change.

**J.K.** No Change.

1. No Change.

2. No Change.

3. No Change.

**K.L.** No Change.

1. No Change.

**L.M.** No Change.

**R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities**

A. All of 40 CFR 266 and accompanying appendices as amended as of July 1, 1996~~1997~~ (and no future editions), are incorporated by reference and are on file with the DEQ and the Office of the Secretary of State.

B. No Change.

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**R18-8-268. Land Disposal Restrictions**

All of 40 CFR 268 and accompanying appendices, as amended as of July 1, 1996~~1997~~ (and no future editions), with the exception of Part 268(B), Subpart B, are incorporated by reference and are on file with the DEQ and the Office of the Secretary of State. ~~In addition, all amendments to Part 268 and its appendices in 61 Federal Register 43924, on August 26, 1996 are incorporated by reference and on file with the DEQ and the Office of Secretary of State.~~

**R18-8-270. The Hazardous Waste Permit Program**

A. All of 40 CFR 270, as amended as of July 1, 1996~~1997~~ (and no future editions), with the exception of §§ 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64, is incorporated by reference and modified by the following subsections of R18-8-270 and is on file with the DEQ and the Office of the Secretary of State. ~~In addition, all amendments to Part 270 and its appendices in 61 Federal Register 59932, on November 25, 1996 are incorporated by reference and on file with the DEQ and the Office of Secretary of State.~~

B. No Change.

1. No Change.
  - a. No Change.
  - b. No Change.
  - c. No Change.
2. No Change.
  - a. No Change.
  - b. No Change.

C. § 270.1, entitled "Purpose, scope, and applicability", paragraph (c)(3)(i)(D) is amended as follows:

- (D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialists as defined in 40 CFR 260.10. [The DEQ Emergency Response Unit shall be notified as soon as possible, using the 24-hour number (602) 207-2330 or (800) 324-5677, extension 2330.]

~~C.D.~~ No Change.

~~D.E.~~ No Change.

~~E.F.~~ No Change.

~~F.G.~~ No Change.

~~G.H.~~ No Change.

1. No Change.
  - a. No Change.
  - b. No Change.
  - c. No Change.
  - d. No Change.
2. No Change.
3. No Change.
  - a. No Change.
  - b. No Change.
  - c. No Change.
4. No Change.
5. No Change.
6. No Change.
  - a. No Change.
  - b. No Change.
7. No Change.
  - a. No Change.
  - b. No Change.
  - c. No Change.
  - d. No Change.
  - e. No Change.
  - f. No Change.

g. No Change.

h. No Change.

i. No Change.

j. No Change.

8. No Change.

9. No Change.

~~H.I.~~ No Change.

~~I.J.~~ No Change.

~~J.K.~~ No Change.

(23) No Change.

(24)(i) No Change.

(A) No Change.

(B) No Change.

(ii) No Change.

~~K.L.~~ No Change.

~~L.M.~~ No Change.

~~M.N.~~ No Change.

~~N.O.~~ No Change.

~~O.P.~~ No Change.

~~P.Q.~~ No Change.

~~Q.R.~~ No Change.

**R18-8-271. Procedures for Permit Administration**

A. All of 40 CFR 124 and the accompanying appendix as amended as of July 1, 1996~~1997~~ (and no future editions), relating to HWM facilities, with the exception of §§ 124.1(b) through (e), 124.2, 124.4, 124.16, 124.20 and 124.21, are incorporated by reference and modified by the following subsections of R18-8-271 and are on file with the DEQ and the Office of the Secretary of State.

- B. No Change.  
C. No Change.  
D. No Change.  
E. No Change.  
F. No Change.  
G. No Change.  
H. No Change.  
I. No Change.  
J. No Change.  
K. No Change.  
L. No Change.  
M. No Change.  
N. No Change.  
O. No Change.  
P. No Change.  
Q. No Change.  
R. No Change.  
S. No Change.  
T. No Change.

**R18-8-273. Standards for Universal Waste Management**

A. All of 40 CFR 273, as amended as of July 1, 1996~~1997~~ (and no future editions), is incorporated by reference and modified by the following subsections of R18-8-273 and are on file with the DEQ and the Office of the Secretary of State.

- B. No Change.  
C. No Change.  
D. No Change.  
E. No Change.  
F. No Change.  
G. No Change.  
H. No Change.  
I. No Change.  
J. No Change.